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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,635	07/15/2004	Philip Andrew Walton	EBAC-14	4895

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03/29/2007

EXAMINER

CARTAGENA, MELVIN A

ART UNIT

PAPER NUMBER

3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/501,635

Applicant(s)

WALTON ET AL.

Examiner

Melvin A. Cartagena

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12,21-23,29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11,21-23 and 29 is/are rejected.
- 7) ☒ Claim(s) 12 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 07152004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 8, 9, 21, 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,443,334 to John et al.

John shows a bottle fluid dispenser as seen in Figs. 4 and 8, having a vertically elongated housing with front, back and sides and a dispensing recess in tower 90, a bottle opening 14 located below the dispensing recess to received a bottle 16, a reservoir 68, a discharge outlet 20 located at the top of the dispensing recess, a part-circular bottle-support platform 26, see Fig. 2, the bottle support fix to the housing by tracks 28, a dip tube 18 for insertion into the bottle and in communication with the reservoir, a forward projection circular top 96, a housing section 12 substantially twice that of the bottle opening, a bottle-opening semi-circular door 24, a pump 62 connected with the reservoir through a liquid accumulator 66 and an empty bottle sensor 110, see column 14, lines 10-17.

In reference to claim 9, see column 5, lines 11-12.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3754

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,443,334 to John et al. in view of US 6,722,530 to King et al.

John disclosed the claimed invention as discussed above except for a rack and pinion drive arrangement instead of a lead screw and follower nut arrangement to move the dip tube up and down. King shows that the rack and pinion drive arrangement is an equivalent arrangement known in the art, see column 6, lines 35-49. Therefore, because these arrangements were art recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a rack and pinion drive for a lead screw and nut drive arrangement.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,443,334 to John et al. in view of US 2,539,615 to Fox et al.

John shows all claimed features as discussed above except for simultaneous actuation of the door and the dip tube. Fox shows a door 103 and dip tubes 53 actuated simultaneously. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of John to include a simultaneously actuating door and dip tube to completely clear the container for replacement when the door is opened as taught by Fox.

6. Claims 11 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,443,334 to John et al. in view of US 2,618,407 to Thorn.

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John shows all claimed features as discussed above except for a hollow probe insert able into the container and the dip tube inserted through the probe. Thorn shows a container-emptying device as seen in Fig. 1-3, having a dip tube 11 inserted through a probe 10. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of John to include a probe insert able in the container to automatically break the seal of the container as taught by Thorn.

***Allowable Subject Matter***

7. Claims 12 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Marshall shows a bulk unloader of plastic material. Ellis shows a wine dispenser. Ohu shows a water dispenser.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

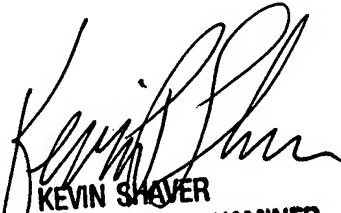
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MAC 3/20/07

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